

**COMMUNITY DIALOG
ON
TRANSPORTATION AND LAND USE**

Meeting Summary of February 19th, 2003

Supervisor Sharon Bulova welcomed attendees of the third meeting of the Community Dialog on Transportation and Land Use (Community Dialog). She mentioned that she and her staff had debated about going forward with the evening's session because of the two foot snowfall that had ended Monday. Many folks were still having trouble getting out of their subdivisions. The decision was made to go forward with the meeting. Sharon suggested the group may wish to bring back key elements (speakers) of the program on the evening of April 2nd, which right now is slated for "Review of Discussion to Date". This would give Dialog Members who missed the Feb. 19th session to still have the benefit of hearing about critical points discussed during the evening's program.

Panelists for the program were: Jim Zook, Director of the Fairfax County Department of Planning and Zoning; Young Ho Chang, Director of Fairfax County Department of Transportation; Rob Stalzer, Deputy County Executive for Planning and Development; and David Bobzien, head of Fairfax County's legal staff.

Panel Discussion:

- **Jim Zook** began the discussion with a history of planning and zoning in Fairfax County. He read headlines from the Washington Post published in 1973, 30 years ago, that described development pressures, and our inability to keep up with transportation and air quality concerns. The news stories sounded very much like the headlines we read today. Our growth and development challenges, he said, are not new. About the time of the article, our population was about 550,000 people; today's population is above 1,000,000 people. In 1973, there were 96,000 jobs in the County; today there are 550,000 jobs. The County's growth over the time frame was similar to the growth experienced by other counties in the Metropolitan Washington Area. Additional growth is forecasted in the coming 25 years for the Region and Fairfax will experience a share of this growth. The question, he said, is not whether or not we will grow but how we will grow. County Plans seek to focus growth in areas of transportation advantage, such as Metro Station areas and seek to incorporate housing into employment center, such as Tyson's Corner. In this manner there is an opportunity to reduce vehicle miles traveled and lessen vehicle air pollution emissions on a per capita basis.

Mr. Zook handed out copies of Goals that the Board of Supervisors adopted in 1987. Included among the **Goals** is the need to provide and maintain affordable housing in Fairfax County. He described a major process in 1989 and 1990 called **Planning Horizons** which in addition to affordable housing sought to achieve or maintain many other objectives; such as, quality public facilities, environmental protection, employment

opportunities, and balancing land use and transportation. These and other objectives are set for the in the County's Comprehensive Plan. He said that Citizens have been and continue to be heavily involved and instrumental in envisioning and determining Goals of the County. Citizens wishing to learn more about the Goals and Policies of the County with respect to planning for its future can access the County web site and review the County's Policy Plan.

In 1958, when the County first adopted **Zoning** to regulate land use, most residential property received the zoning designation "one unit per acre".

From 1973 to 1975, citizens worked with County staff and the Board of Supervisors to comprehensively review and revise prior County Plans. The PLUS (Planning and Land Use System) Comprehensive Plan provided a blueprint for how we wanted our County to be developed. The new plan was called "**The Plus Plan**" and has endured throughout the decades, with some changes being made during cyclical "Plan Review" processes. The Planning Horizon's Plan reaffirmed many of the policies and directions set forth in the PLUS Plan. During years when the Plan Review takes place, citizens are allowed to nominate changes to the Comprehensive Plan. Citizen Task Forces in each district make recommendations to the Board of Supervisors and to County staff about whether or not the changes should be accepted.

Mr. Zook explained that **Zoning is "law"** and governs what can or cannot be done on a particular property. Virginia courts and General Assembly are staunchly protective of land owners' property rights. **The Comprehensive Plan is a "guide"**, a very powerful tool that has consistently been upheld in Virginia courts. When a property owner seeks to rezone his property, and it is in conformance to guidance in the Comprehensive Plan, the Board of Supervisors risks potentially adverse legal consequences if it were to deny the rezoning, so long as it is consistent with other State and County requirements. Therefore the Comprehensive Plan, while a guide, is a significant tool in managing growth.

A copy of the rezoning process, which includes a County staff review and public hearings before the Planning Commission and Board of Supervisors, was distributed to the group.

Growth, Mr. Zook said, is unavoidable in a County located right outside the Nation's Capital. The County attempts to locate/encourage future growth near employment centers and away from environmentally sensitive areas, such as the Occoquan watershed and Mason's Neck.

- Fairfax County Director of our Department of Transportation **Young Ho Chang** began his presentation by explaining that in Virginia the State owns and maintains **all roads in every county**. Even subdivision cul de sacs are State roads. He distributed an excellent handout which can be found as an attachment to this meeting summary.

The Commonwealth Transportation Board oversees the Virginia Department of Transportation (VDOT) and the Virginia Department of Rail and Public Transportation

(VDRPT). Members to the Commonwealth Transportation Board are appointed by the Governor.

The **Transportation Planning Board (TPB)** is the Planning Organization for the Northern Virginia, Washington DC and Suburban Maryland area. The “**TIP**” is the region’s Transportation Improvement and Implementation Plan.

Mr. Chang stated that air quality is more of a problem for the region than ever. Every transportation project must be evaluated for its effect on air quality. The region had an air quality “budget” that we must meet as we attempt to reduce our federal air quality designation of “**serious**”. If we are not able to improve our air quality, we risk losing federal transportation funding, which happened in Atlanta.

The **County’s Comprehensive Plan includes a Transportation Element**, which provides goals, objectives and policies for planning and implementing the County’s transportation system. The County will complete a Plan Monitoring Effort by the end of 2003. The Transportation Section of the Plan will be updated by late 2004. Land Use and Transportation policies in the Plan should be complementary and should also minimize community disruption and environmental impacts.

Mr. Chang spoke about various modes of transportation and the County’s efforts to provide options to the SOV (single occupant vehicle) commuter. Fairfax County spends approximately \$65 million per year on transportation. Since 1981, Fairfax County has spent \$575 on transportation from General Obligation Bonds. This has financed projects such as:

- Metrorail, Fairfax Connector Bus Garage, Commuter Park & Ride Lots
- The Fairfax County Parkway
- The Franconia/Springfield Transportation Center
- Approximately 100 road and intersection improvements that were on the State’s Six-Year Plan

Sharing his personal observations, Mr. Chang said that he believes congestion is a byproduct of a successful economy. The “if you don’t build it they won’t come” theory has been proven not to work. People don’t like sprawl, but they don’t like density either. The region needs a comprehensive package of strategies to resolve our transportation and congestion problems, and the will to carry them out.

- **Rob Stalzer** described to the group the County’s **Capital Improvement Plan (CIP)**. The CIP is the County’s plan for community facilities – the **bricks and mortar** part of our planning and budget. The CIP includes cost estimates and a timeline for parks, recreation facilities, roads, transit facilities, trails, wastewater, drinking water, human services facilities, courts and neighborhood improvements.

The CIP is prepared by the Planning Commission when directed by the Board of Supervisors. It is a “fluid” document that can and does change with the needs of the community. The CIP is a five-year plan, with a ten-year “horizon”, found in the Code of

Virginia. It looks at the need for new facilities, as well as the need for renovating or re-building older facilities.

County Boards and Commissions and County agencies and departments participate in the annual process for amending the CIP. Public hearings are held before the Planning Commission and the Board of Supervisors prior to Board action to adopt an updated CIP. It includes projects that are anticipated to be funded through the County's General Fund, General Obligation Bonds, or through another agency such as VDOT and The Northern Virginia Regional Park Authority. The CIP, while not a "budget", is a part of the budget process and is adopted in concert with the budget.

- County Attorney **David Bobzien** discussed the County's history of pursuing and defending attempts to better manage growth.

Twenty years ago, on July 26, 1982, the Board of Supervisors downzoned 41,000 acres of land in the Occoquan watershed basin from R-1 (one unit per acre) to RC (Residential Conservation, one unit per five acres). The County was immediately sued by 26 landowners/parties. The case went all the way to the Supreme Court of Virginia. Judge Johanna Fitzpatrick was the judge deciding the case.

Our County Attorney's office attempted to show that the downzoning was a "Comprehensive" (for the common good) rezoning, done to preserve the County's water supply. The judge disagreed and regarded the downzoning as "piecemeal", which required a greater burden of proof for the County to defend the action. Among the few legally permitted reasons for a "piecemeal downzoning" is the argument that of "Change of Circumstances" had occurred. Other reasons for a piecemeal downzoning could be that a "Mistake" had been made, or "Fraud" had been committed.

Using the Change of Circumstance argument, the County was able to document that our drinking water in the Occoquan watershed had been seriously degraded between 1978 (the last time zoning changes had been made) and 1982, and that action was needed to prevent further degradation. The County also demonstrated that while we were reducing density in the Occoquan, we were shifting that density to the Centreville/Chantilly area, where the growth could be better accommodated. In 1984, Judge Johanna Fitzpatrick decided the case in favor of the County. It was a landmark victory, especially in light of lost land use cases prior to that.

Mr. Bobzien described a less successful attempt at downzoning land in the County that came to be known as **The C's and I's**. On December 11, 1989, in an attempt to better balance transportation and land use, the Board of Supervisors passed zoning laws restricting the amount of Office in certain Commercially and Industrially zoned land (much of which was in the Route 28 corridor).

Landowners sued largely on procedural grounds...lack of adequate notice and an abdication of the Board's legislative function to staff. Circuit Court Judge Plummer ruled

against the County. On November 8, 1991, the Supreme Court of Virginia upheld the Board and remanded four separate cases to Circuit Court.

At the same time, the election ushered in a new Board that had a different view on the matter and significantly undid the decisions of the prior Board. Additionally, the General Assembly passed several laws (“**Vesting Bills**”) that make it more difficult to change zoning against a landowner’s will.

Mr. Bobzien described several tools that the County was seeking that would help us to better plan for and manage our growth. One of these tools is an **Adequate Public Facilities Ordinance**. Under the provisions of a HB 2039 **introduced and defeated** by the General Assembly this session, “Approval of subdivision plats or site plans can be deferred for up to twelve years if the **Comprehensive Plan** identifies inadequate public facilities. The developer can obtain a waiver through the payment of impact fees that will go into a fund to support the localities capital improvement program.” HB 2039 was submitted to the House Committee on Counties, Cities, and Towns and was immediately killed on a 20 to 2 vote, with the two ayes coming from the Delegates representing Prince William County.

It is expected that the **Commission on Growth and Economic Development**, made up of Senators, Delegates, industry, and localities, will study HB 2039.

Transferable Development Rights is a tool that would provide for “a developer to get credit for giving up rights to intensive development on one site in exchange for higher density or intensity at a site more favored for such by the locality.” Previous attempts to gain **TDR** authority from the State have been unsuccessful and nothing has been introduced in the General Assembly on this topic in about 10 years.

The Panel Discussion was followed by about ten minutes of questions from the audience.

Members of the group wondered about how much ability we have to reduce density given the fact that we have existing zoning and a Comprehensive Plan in place.

The Dialog Group asked about taxing new growth via a “new growth” special tax district.

Several members suggested that new schools take precedence over the renewal of older schools.

Break Out Discussion Group:

Participants of the Community Dialog divided into four Break Out Discussion Groups. Group One was facilitated by Bob Griendling and Phylis McDivitt, Group Two by Chris Craig and Judy Rexrode, Group Three by Russell Klosk and Jan Heditniemi, and Group four by Jeff Nolan.

Discussion Groups were given the following questions to discuss:

If you were crowned King of Fairfax County, with no constraints to limit your options, what would you change about our current system for planning of land use and transportation?

Given the constraints you are aware of in the planning and development of land-use and transportation, what laws would you most like to change, or what different strategies or approaches would you take instead of the current process?

Reporting Out:

Discussion Leaders reported on the discussion in their groups as follows:

Group Three, Jan Heditniemi

Zoning laws should provide for more mixed use to make commuting and running errands more accessible.

Develop corridors such as Ballston for development in given transportation corridors.

Convert existing strip malls into mixed use centers modeled after Reston Town Center Concept. Connect with frequent bussing.

Rather than Hub and Spoke system or Spider system of development, look at Mini Hubs that form smaller spider systems.

Have charettes or focus groups for town planning, with equal weight between neighbors and developers.

Provide community with the sole authority to change zoning “at will” to fit changing community beliefs.

Control and autonomy should be local and not in Richmond. Revise the Constitution.

Change proportion of money that comes back to us. We need more authority and funding of our own.

Have fixed bid pricing on transportation projects, with incentives for early delivery (no allowances for cost over runs).

Group Four, Jeff Nolan:

Repeal the Dillon Rule!

Need a better balance of transit oriented development and density.

Need better balance between highway vs. transit, i.e. balance funding on modes.

Need more action and foresight on long term transit planning.

More cross county transportation.

More mass transit and level pricing/ financial incentives to take mass transit. Peak hour pricing should be lower, not higher.

HOV-3? Or Other incentives.

Change our Zoning to accommodate changes in our culture.

Examine costs of rail, light rail vs. heavy. Look at new technology! Innovate.

How do we get our fair share of money from Virginia?

Can we seriously consider becoming the State of North Virginia?

Group Two, Chris Craig:

There is a lack of trust in Fairfax County. We need to create trust. Don't necessarily agree with underlying assumptions in the CIP.

Challenge the assumptions that growth is inevitable.

Re-evaluate the premises of continued strong growth.

There needs to be a strong link between planning and funding.

There should be sanctions for violating the Plan.

Include transportation in the CIP process.

Untie the hands of choice for leaders.

More referendum opportunities.

More people need to participate and become involved.

Need an Adequate Public Facilities Law.

Put high density housing where jobs are (i.e. Tysons).

Group One, Bob Griendling:

Is growth really inevitable?

Plan for more restrictive Land Use.

Move people not cars.

Have more referenda, not like California, which has resulted in big debt, but to allow people to express opinions.

Need to get more people involved in process.

Need to provide opportunity for people to be involved in process earlier.

Our system reacts, doesn't plan sufficiently.

We should mount a legal challenge to the Dillon Rule.

We should have an Adequate Public Facilities Law.

Lots of entities in our economy that do not pay taxes.

Change the Dillon Law.

The Third Meeting of Community Dialog adjourned at about 9:20. Supervisor Bulova reminded the group that our next session was scheduled for the evening of March 5th. The topic for discussion will be Funding for Transportation.

Supervisor Sharon Bulova

Attendance

Chair:	Sharon Bulova
Speakers:	James Zook
	Young Ho Chang
	Rob Stalzer
	David Bobzien
Staff:	Florence Naeve

Colin Campbell
Sally Tomlin
Ronni McCrohan

Community Dialog Participants

Ms. Nancy Baltrusch
Mr. Richard Bowes
Dennis Chamot
Mr. Christopher Craig
Mrs. Dorothy Dane
Mr. Ivan Dietrich
Mr. Robert Griendling
Ms. Suzanne Harsel
Ms. Jan Hedetniemi
Mr. Loren W. Hershey
Ms. Nell Hurley
Mr. Kurt Johnson
Mr. Robert F. Kelly
Mr. Paul Kite
Mr. Russell M. Klosk
Mr. Michael S. Malak
Ms. Phyliss A. McDevitt
Walter & Harriet Mika
Mr. John Miranda
Mr. Jeffery Nolan
Ms. Barbara Nunes
Mr. Fidel Ortega
Bob And Judy Rexrode
Ms. Winnie Shapiro
Peter Skoro
Mr. and Mrs. Harry Stevenson
Ms. Terry Wanbaugh
Mr. Mark Werfel